

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

HARD ROCK CAFE INTERNATIONAL  
(USA), INC.,

Plaintiff,

v.

HARD ROCK HOTEL HOLDINGS, LLC,  
HARD ROCK HOTEL, INC., HRHH IP, LLC,  
MORGANS HOTEL GROUP CO., MORGANS  
HOTEL GROUP MANAGEMENT, LLC,  
MORGANS GROUP, LLC, DLJMB HRH  
VOTECO, LLC, DLJ MB IV HRH, LLC, DLJ  
MERCHANT BANKING PARTNERS IV, L.P.,  
TURNER BROADCASTING SYSTEM, INC.,  
BRAD LACHMAN PRODUCTIONS, INC. and  
GENCO ENTERTAINMENT, INC.,

Defendants.

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ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 12/21/11

Case No. 10 CV 7244 (WHP)

**FIFTH AMENDED**  
**STIPULATION AND ORDER**

Plaintiff Hard Rock Cafe International (USA), Inc. (“HRCI”) and Defendants Hard Rock Hotel Holdings, LLC, Hard Rock Hotel, Inc., HRHH IP, LLC (the “Hard Rock Defendants”), Morgans Hotel Group Management LLC and Turner Broadcasting System, Inc., Brad Lachman Productions, Inc. and Genco Entertainment, Inc.<sup>1</sup> (Plaintiff and all of the foregoing Defendants are referred to hereinafter collectively as the “Parties”), by and through their undersigned counsel, hereby stipulate to various matters, including but not limited to an extension of certain deadlines set forth in the Fourth Amended Stipulation and Order entered on November 18, 2011 [Docket No. 66], and agree that the following schedule of deadlines shall replace certain of the deadlines set forth in the prior Order and shall govern the further conduct of pretrial proceedings in this case:

<sup>1</sup> Defendants Morgans Hotel Group Co., Morgans Group, LLC, DLJMB HRH VoteCo, LLC, DLJ MB IV HRH, LLC, DLJ Merchant Banking Partners IV, L.P. were all dismissed from this case by Order of this Court dated July 11, 2011 [Docket No. 61] and are not subject to the provisions of this stipulation and order.

1. Plaintiff and the Hard Rock Defendants will meet in person for continued settlement discussions as rapidly and as frequently as their schedules permit. If no settlement is reached through such discussions, then the Parties (including principals with settlement authority) shall meet for another mediation session with the Honorable Robert W. Sweet in New York on January 19, 2012 at 9:30 a.m.

2. Plaintiff's motion for leave to file the Second Amended Complaint shall be filed promptly by ECF no sooner than February 6, 2012 and no later than February 13, 2012 or three (3) business days after the Court approves this Stipulation, whichever is later, and shall be deemed served on all Defendants upon filing. Defendants' opposition to that motion, if any, shall be filed no later than twenty-one (21) days after the motion is filed. Such motion and any subsequent motions shall be governed by Rule 3 of this Court's Individual Practices.

3. If no settlement is reached, the Parties will begin exchanging their respective document productions on February 13, 2012, and shall complete their respective productions no later than April 13, 2012, provided that (a) the Parties shall make at least one substantial interim production on or about March 19, 2012; and (b) production of any documents relevant only to factual matters that are the subject of any pending motions may be deferred until the Court rules, but must be completed within forty five (45) days of any such ruling or by April 13, 2012, whichever is later.

4. The Parties shall submit letters by April 6, 2012 advising the Court and each other whether they intend to pursue expert discovery and, if so, identifying their experts and disclosing the subject of expert testimony.

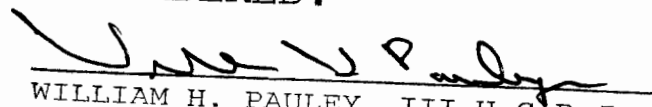
5. All fact discovery shall be completed by June 20, 2012.

6. The Parties shall submit a joint pre-trial order in accord with this Court's Individual Practices by August 21, 2012.

7. The Court will hold a final pre-trial conference  
on September 7, 2012 at 10:30 a.m. ~~11:30~~

[signature page follows]

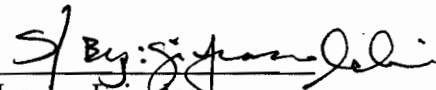
SO ORDERED:

  
WILLIAM H. PAULEY III U.S.D.J.  
12/21/11

SO STIPULATED:

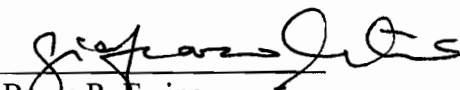
Dated: New York, New York  
December 20, 2011

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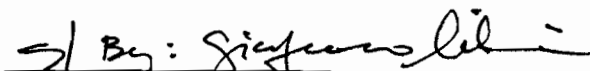
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*Attorneys for the Defendants Turner  
Broadcasting System, Inc., Brad  
Lachman Productions, Inc. and Genco  
Entertainment, Inc.*

SO ORDERED:

Dated: \_\_\_\_\_

\_\_\_\_\_  
U.S.D.J.